

**UNITED STATES BANKRUPTCY COURT  
MIDDLE DISTRICT OF ALABAMA**

In re

Case No. 04-80081-WRS  
Chapter 13

HELEN M. JOHNSON,

Debtor

HELEN M. JOHNSON,

Plaintiff

Adv. Pro. No. 04-8017-WRS

v.

NELSON C. COFFIN,

Defendant

**MEMORANDUM DECISION**

This Adversary Proceeding is before the Court upon the Plaintiff's motion for default judgment (Doc. 9). The Plaintiff seeks declaratory relief in the form of a determination, pursuant to 11 U.S.C. § 506(d), that the lien of Defendant Nelson C. Coffin does not encumber the Debtor's property as the amount owed on the senior mortgage exceeds the value of the property. From the record it appears that the Defendant was served on October 4, 2004, and that he has not filed an answer.

The Court notes that, upon the facts before the Court, the security interest of Nelson C. Coffin is wholly unsecured and that the underlying indebtedness is subject to discharge. In the

event that the underlying Chapter 13 case is dismissed prior to discharge, then this judgment is of no effect. 11 U.S.C. § 349(b)(1)(C). The Court will enter a judgment on a separate document.

Done this 23rd day of February, 2005.

/s/ William R. Sawyer  
United States Bankruptcy Judge

c: F. Patrick Loftin, Attorney for Plaintiff  
Nelson C. Coffin, Defendant